

REMARKS

Claims 1-11 are pending. Claims 1-3 have been rejected. Claims 4-11 have been objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form, including all the limitations of the base claims and any intervening claims. Claims 12 and 13 have been canceled.

Rejection of Claims 1-13

Claims 1-3 have been rejected under 35 USC § 103(a) as being unpatentable over Perne et al. (US 4,699,285) in view of Bergholtz (US 6,260,723). More particularly, the rejection states that “Perne et al. discloses the claimed invention except for the rim being wedged in the gap. Bergholtz teaches that it is known to wedge a rim in a closure gap.” This rejection is respectfully traversed.

Claim 1 calls for, in pertinent part, “a package comprising: a container ...; a closure ...; and sealing elements including an annular sealing flange extending downwardly and inwardly from the end wall of the enclosure and having an outer sealing surface which engages an inner sealing surface on the flared portion of the container, and an annular upper portion of the inner surface of the skirt being inclined downwardly and outwardly relative to the outer surface of the annular sealing flange to form with the annular sealing flange an upwardly converging annular gap into which the rim of the container is wedged as the container engaging members on the closure and the closure engaging members on the container engage.” As conceded in the Office Action, Perne et al. does not disclose a package in which the rim of a container is wedged into a gap formed in the closure.

Bergholtz adds nothing to Perne et al. that would suggest the combination of Claim 1. During the telephone interview between Examiner Eloshway and the undersigned on January 7, 2005, the following points were discussed. Bergholtz is directed to a package that includes a snap lid, that is, a package in which the lid is secured to the container by snap action. The gap in Bergholtz actually diverges to effectuate the snap action. In fact, it is essential to the operation of Bergholtz that this gap diverge so that this rim can be snapped into place. The gap diverges so that the cap is pulled into contact with the rim of the container.

Applicant's seal works much differently. The rim is wedged into the upwardly converging walls forming the gap. The creates reaction forces that tend to push the rim back out of the gap. This is opposite to the diverging walls of the gap in Bergholtz which tend to pull the cap inward. The threads in the claimed combination apply the force to wedge the rim into the converging gap.

Furthermore, before the teachings of two references can be combined, there must be motivation in those references or the prior art to do so. No such motivation is present in the case of Perne et al. and Bergholtz. The snap connection of Bergholtz is redundant to the threads used to connect the lid to the closure by Perne et al. One skilled in the art would not look to Bergholtz to improve upon the seal which is separate from the means for connecting the closure to the container.

In view of this discussion, the Examiner indicated that the rejection based on Perne et al. and Bergholtz would be withdrawn.

Claims 2 and 3 depend from Claim 1 and are therefore patentable over the references for the same reason.

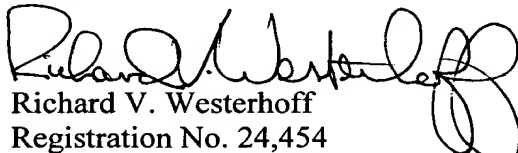
Allowable Claims 4-11

In view of the fact that Claim 1 is patentable over the cited art, it is not necessary to rewrite Claims 4-11, which have been indicated as being allowable if placed in independent form.

Conclusion

In view of all of the above, reconsideration and allowance of the application as now presented is respectfully solicited.

Respectfully submitted,



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